

AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 12/13/2010
FROM: Faith G. Miller, City Manager **AGENDA ITEM:** 10 - C
SUBJECT: Consideration of request from Mr. Guy Skehan Jackson for reduction of fine from \$47,000.00 assessed pursuant to Code Board Case DEL-97-129 (Repeat).

LOCATION:

This property is located at 655 Hartley Circle, Deltona, Florida. The Parcel No. is 30-18-31-01-11-0260.

BACKGROUND:

An order Imposing Fine/Lien was entered on June 28, 1999, by the City of Deltona Code Board, ordering Guy Skehan Jackson to pay to the City of Deltona a fine in the amount of two hundred and fifty dollars (\$250.00) retroactively to April 30, 1999 and continue until the property was brought into compliance. The violation occurred when the respondent failed to properly park his boat at the property located at 655 Hartley Circle. The respondent failed to come into compliance for 190 days and the total accumulated amount due is \$47,000.00. Mr. Jackson and his attorney (Darren Elkind) appeared before the Special Magistrate to request a recommendation to reduce the fine.

**ORIGINATING
DEPARTMENT:**

Enforcement Services

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

Legal Department

**STAFF
RECOMMENDATION
PRESENTED BY:**

Dale Baker, Enforcement Services Director - On November 23, 2010, the Special Magistrate, Charles J. Cino, issued a recommendation to reduce the fine to \$5000.00.

Enforcement Services Staff forwards the Special Magistrate's recommendation.

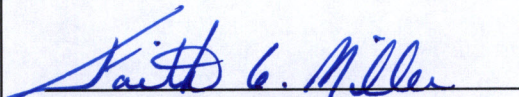
**POTENTIAL
MOTION:**

"I move that the City Commission grant the request of Guy Skehan Jackson for a reduction of the fine concerning Case No. DEL-97-129 for the property located at 655 Hartley Circle, Deltona, Florida, to the sum of \$5000.00 to be paid within 30 days (January 13, 2011) or the fine reverts back to the original amount."

OR

"I move that the City Commission not grant any reduction of the fine requested of Guy Skehan Jackson of the fine concerning Case No. DEL-97-129 for the property located at 655 Hartley Circle, Deltona, Florida."

**AGENDA ITEM
APPROVED BY:**


Faith G. Miller, City Manager

ATTACHMENTS:

- Background Information
- Article - Daytona Beach News Journal

Background information for request in reduction in fines for Case DEL-97-129 (Repeat):

DEL-97-129 (Repeat)
Guy Skeehan Jackson
655 Hartley Circle
Deltona, FL

Property Address: 655 Hartley Circle, Deltona, Florida

Request for Reduction of Monies Owed. Total amount owed for having a boat improperly parked is \$47,000.00.

1. August 25, 1997 Case went before the Code Board and found in non-compliance; Given 60 days to come into compliance or there will be a hearing to impose fines.
2. October 27, 1997 Re-scheduled to November.
3. November 24, 1997 Order of non-compliance issued. No notes as to any fine.
4. April 30, 1999 Officer observed the violation had re-occurred.
5. May 17, 1999 Notice of Repeat Code Violation issued to owner.
6. May 24, 1999 Scheduled to appear before the Code Board; Case continued to June 28, 1999
7. June 28, 1999 Code Board found the respondent in non-compliance and a fine of \$250.00 per day retroactive to April 30, 1999.
8. December 10, 1999 Officer issued an affidavit of compliance 190 days after the Board's Order of June 28, 1999, a fine of \$47,000.00 dollars is levied.

Mr. Cino is recommending a reduction in fines to \$5,000.00. This is based on the statement that the violation was corrected the day after the Board made its final determination and the case had been continued for a month, more than likely by staff. Mr. Jackson would have been in violation for 24 days at \$250 which would be a fine of \$5,000.00.

NOTE: 24 days at \$250 is actually \$6,000.

Daytona Beach News-Journal - Monday November 29, 2010

DELTONA -- Guy Jackson has lived in his house for nearly as long as homes have been in this city, but it's a boat that got him in code enforcement trouble.

Much has changed in Deltona since 1965, when Jackson's house at 655 Hartley Circle was constructed. Jackson hasn't always recognized the changes, which led him into his current quandary -- a \$47,500 code-enforcement fine that's currently being levied as a lien against his property.

Jackson is seeking a reduction of that fine, which dates back to code violations going back to 1997.

"He was born and raised into this home," his attorney Darren Elkind argued last week.

Elkind laid out Jackson's case for a fine reduction at a hearing of the city's special magistrate for code enforcement.

The magistrate, Charles Cino, heard evidence from both Elkind and the city's code officers before deciding to recommend reducing the fine to \$5,000

The City Commission has the ultimate authority to decide on a request.

Jackson inherited the house from his parents, who kept a boat on the property for years, Elkind said. Later, in 1997, less than two years after Deltona was first incorporated, Jackson was cited for doing the same thing -- parking a boat where neighbors could see it. "That didn't sit well with him," Elkind said.

Jackson moved the boat around a few places, but ultimately started parking it again at his own home, and was cited a second time, in 1999. Repeat violators of city codes face more severe sanctions, including fines.

There was a hearing, Elkind said, and Jackson pleaded with the code board not to fine him because none of his neighbors were complaining.

Instead, the board started running the meter on a fine -- \$250 a day -- until Jackson moved the boat and provided evidence to the city's code-enforcement officers. Although Jackson now says he moved his boat the day after the hearing, he did not call code enforcement to confirm that the problem had been resolved and to get the rolling fine meter to stop. Elkind said Jackson knew nothing about the lien until he went to refinance the house earlier this year and couldn't because of the outstanding fines.

Elkind asked Cino to reduce the fine to \$500.

After reviewing the case, including meeting minutes dating to 1999, Cino settled on the \$5,000 figure. He said he didn't want to reduce it further because Jackson was a repeat violator and because the city's code enforcement board had earlier determined Jackson's response to be egregious enough to carry the fine.

"I don't want to usurp the board's authority," he said.

The City Commission is expected to review the case at its Dec. 13 meeting.